Statement of Jon Leibowitz
Nomination for a Second Term as Commissioner, Federal Trade Commission
November 15, 2011

Chairman Rockefeller, Ranking Member Hutchison, Members of the Committee:

I am pleased to appear before you with Maureen Ohlhausen, a former FTC official, who we hope will soon be back at the agency in a new role as a Commissioner. And I am delighted to be here with my colleagues on the Commission: Tom Rosch, Edith Ramirez, and Julie Brill. I am also joined by my wife, Ruth Marcus, and our daughters, Emma and Julia.

It has been a wonderful opportunity to serve on the FTC for the past seven years, including the past two-and-a-half as Chairman. Just three years shy of our centennial, the FTC is the nation's premier consumer protection agency. We play a critical role in freeing the marketplace from predatory, fraudulent, and anticompetitive conduct that tilts the playing field against consumers and honest businesspeople. And we focus on a wide range of goods and services – from high-tech computer chips to children's mobile apps to one-way truck rentals.

The Commission's great strength is that we are bipartisan, collegial, and work hard to reach decisions by consensus. We are inspired by a staff that is widely recognized as one of the most professional, diligent, and highly qualified in the federal government.

As you know, we are a small agency with a big mission. Let me highlight just a few of the issues on which we will continue to focus:

Pursuing unfair or deceptive practices aimed at financially distressed consumers will remain a priority for the FTC. The exponential growth of the Internet, combined with the current economic downturn, has fueled a resurgence of what we call "last dollar frauds." These are targeted at the most vulnerable consumers and include foreclosure rescue scams, sham debt relief, and bogus job opportunities. Since 2009, the FTC alone has brought 90 cases against these predators. Leveraging our resources, we partnered with State Attorneys General and other federal and state agencies on more than 400 such cases.

As just one example, this past summer, the FTC concluded a case against Countrywide for, we alleged, mishandling consumer loans in bankruptcy and charging excessive fees for mortgage servicing. We mailed more than $108 million in redress checks to 450,000 homeowners.

Consumer privacy will continue to be a major focus from both enforcement and policy perspectives. Ever-evolving technologies, such as mobile devices, open up the riches of the Internet but also pose new threats. The FTC has responded by bringing almost 100 spam and spyware cases, more than 30 data security cases, and nearly 80 cases for violations of Do Not Call in the past decade. Last December, we also released a preliminary staff report highlighting critical self-regulatory principles that seek to protect consumers' privacy while allowing industry to continue to innovate on the Internet.

Of course, protecting privacy in the face of new technologies will remain a challenge. We are aware of this Committee's concerns about the privacy implications of mobile apps, flash cookies, geolocation, and facial recognition; the value of industry-wide codes of conduct; and the difficulty of safeguarding privacy when users of electronic devices every year seem to grow younger as well as more tech-savvy than their parents. We look forward to working with you to address these issues.

Health care competition will remain very high on the FTC's agenda. Families struggling to make it in tough economic times are particularly vulnerable to rising health care costs. We push back against this trend, challenging proposed hospital mergers likely to raise prices and fighting various anticompetitive restrictions on health care goods and services.

An especially egregious practice that we work to restrict is the "pay-for-delay" pharmaceutical settlement. These sweetheart deals between brand-name and generic drug makers delay entry of lower-priced generics on the market and cost Americans billions of dollars annually in higher prescription prices. Equally troubling, these agreements add to the federal deficit because taxpayers fund about one third of the nation's prescription drugs through Medicare, veterans' programs, and the like.

The FTC will continue to monitor petroleum markets closely. We are keenly aware of the impact of gasoline prices on American families – households have only limited ability to reduce their gasoline consumption, so increased prices severely cut into their ability to buy other necessary goods. This past summer, FTC staff issued a study that examined the various factors that increase the price of gasoline, such as OPEC's inherently anticompetitive behavior and rising demand in China and India. We also opened an investigation when we learned of anomalous behavior among oil refineries – profit margins were going up at the same time utilization rates were going down. Let me assure you, if we find violations of the law, we will aggressively pursue them.

Finally, given the agency's jurisdiction over broad sectors of the economy, we will continue to produce various industry studies – many of which Congress requested and emphasize self-regulation. These include periodic reports on the marketing of violent entertainment to children – we examine movies, music, and video games, and next year, we will look at apps, which all too often don't give parents guidance. The most recent study concerns the marketing of healthy food to kids. The feedback from stakeholders has helped us make dramatic improvements to the report's recommendations. I know this Committee will have questions about the marketing part of that report, written by the FTC, and I will be happy to answer them.

To conclude, if I am fortunate enough to be confirmed, I will continue to tackle this broad portfolio of issues with the same energy, focus, and bipartisanship that our agency has applied in the past, and to work with this Committee for the benefit of American consumers.

Thank you.